



Planning and Development Acts 2000 to 2018

Planning Authority: Clare County Council

Planning Register Reference Number: P17/977

Appeal by Kevin and Midori Hayes care of John T. Garrett and Associates of Unit 2, Ballyanrahan East, Main Street, Patrickswell, County Limerick against the decision made on the 20th day of September, 2018 by Clare County Council to grant subject to conditions a permission to Callanan and Walsh Construction Limited care of Derek Conneely Architecture of 7 Castle Street, Oranmore, Galway in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of 51 number residential units comprising of two number two bedroom detached dwellings, one number three bedroom detached dwelling, 42 number three bedroom semi-detached dwellings, six number four bedroom semi-detached dwellings, all including connection to water supply, public sewer, storm water sewer and all ancillary site services at Loughvella, Lahinch Road, Ennis, County Clare, as amended by the further public notices received by the planning authority on the 15th day of June, 2018 and the 27th day of August, 2018.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the Clare County Development Plan 2017-2023 according to which the areas within the site are subject to the zoning objectives 'Residential', 'Buffer' and 'Open space', to the layout of the proposed development, to the established pattern and layout of existing development adjacent to the site location and within the area and, to the planning history, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual and residential amenities of the area, would not depreciate the value of properties in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 30th day of May, 2018, the 15th day of June, 2018 and the 16th day of August, 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be in accordance with the details shown on Drawing number 410-pa-201 Rev-B lodged with the planning authority on the 16th day of August, 2018 including the following revisions to the details indicated on Drawing number 410-pa-205 Rev-A lodged with the planning authority on the 15th day of June, 2018:
 - (a) House number 49 shall be omitted.
 - (b) Single storey two bedroom houses shall be constructed on Site numbers 47 and 48.
 - (c) The house shown on an area zoned, “buffer” (Site number 51) to the west of number 22 Cloonbeg shall be omitted and the area shall be incorporated into landscaped designated open space in accordance with the requirements of condition number 3 below.

- (d) The house shown on an area zoned, “open space” (Site number 50) to the east of number 33 Shanacloon shall be omitted and the area shall be incorporated into landscaped designated open space in accordance with the requirements of condition number 3 below.

Reason: To ensure consistency with the zoning objectives for the lands within the site, visual and residential amenity and the proper planning and sustainable development of the area.

3. New walls two metres in height on stepped retaining walls ground works, and landscaping at the rear of properties at numbers 19, 20 and 21 Woodlawn shall be positioned and constructed in accordance with the details shown in the Sections Plan on Drawing number 410-pa-208 Rev-A lodged with the planning authority on the 16th day of August, 2018. The rear side garden boundaries between Unit numbers 43-47 shall be in concrete block walling not exceeding two metres in height to the inner side and shall be in timber post and panel fencing to the outer side of the new walls on the stepped retaining walls. The ‘low karstic woodland’ shall be planted to the satisfaction of the planning authority following completion of construction and prior to the occupation of the dwellings.

Reason: In the interest of clarity, residential amenity and orderly development.

4. The landscaping plan and boundary treatment, incorporating the amendments to the screen planting and layout shall be in accordance with the details lodged with the planning authority on the 15th day of June, 2018 and in the clarification of further information (Drawing number 410-pa-208 Rev-A) lodged with the planning authority on the 16th day of August, 2018 and shall be fully implemented within the first planting season following completion of construction and shall incorporate the following:-
- (a) The boundary walls facing towards public or communal open space or roadways shall be up to 1.6 metres in height and stone faced.
 - (b) The area within the rear garden boundaries at Units 1 to 8 and 25 to 32 shall be in accordance with Drawing number 410-pa-203 Rev-A lodged with the planning authority on the 30th day of May, 2018.
 - (c) The boundary walls, fencing or hedging is not permitted on front or front side boundaries forward of the front building line of any units.

Reason: In the interests of the visual and residential amenities of the area and orderly and sustainable development.

5. Details of the following requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of the development:
- (a) Materials, colours and textures of all the external finishes. Roof tiles shall be in dark grey, blue black or black.
 - (b) External lighting through the development.

- (c) Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.

Reason: In the interests of orderly development, visual and residential amenities of the area.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. Communal waste storage areas shall be designed and managed in accordance with the proposals within the operational waste management plan lodged with the planning authority. Waste materials shall be transferred to the designated surface level space on the day of collection only.

Reason: In the interests of residential and public amenities.

9. The construction of the development shall be managed in accordance with a construction waste and demolition management plan, which on appointment of a contractor, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development in
- (a) location of the site and materials compounds including areas identified for the storage of construction refuse, areas for construction site offices and staff facilities, site security fencing and hoardings and on-site car parking facilities for site workers during construction,
 - (b) the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site, measures to obviate queuing of construction traffic on the adjoining road network and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
 - (c) details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels. Noises levels shall be managed to accord with the standards in BS 5228: Noise Control on Construction and Open Sites Part 1 Code of Practice for Basic Information and procedures for noise control and shall not result in grounds for complaint as provided for in B.S. 4142. "Method for rating industrial noise affecting mixed residential and industrial areas",

- (d) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (e) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains,
- (f) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority, and
- (g) the plan shall be in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006.

Reason: In the interest of amenities, public health, safety and sustainable development.

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

11. Hours of work shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenities of the surrounding properties.

12. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Paul Hyde

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.